



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 24, 1994

Ms. Ann Diamond
Assistant District Attorney
Tarrant County
Office of the Criminal District Attorney
Justice Center, 401 W. Belknap
Fort Worth, Texas 76196-0201

OR94-134

Dear Ms. Diamond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552. We assigned your request ID# 23943.

Tarrant County (the "county") has received a request for the personnel records of a terminated employee. Specifically, the requestor, who is the terminated employee, seeks "copies of both my personnel file and any file created on/or about me by the Internal Affairs Department." You advise us that most of the requested information has been made available to the requestor. You seek to withhold the remaining information, however, under sections 552.101 and 552.117 of the act.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You seek to withhold under section 552.101 criminal history record information ("CHRI") relating to persons other than the requestor. The CHRI submitted to us for review appears to have been generated by the National Crime Information Center ("NCIC"), the Texas Crime Information Center ("TCIC"), or a local law enforcement agency. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* CHRI information generated within the state of Texas and TCIC files must be withheld from required public disclosure under section 552.101 in conjunction with common-law privacy doctrine. *See Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) (information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing

and is of no legitimate concern to the public); Open Records Decision Nos. 565; 216 (1978). We conclude, therefore, that if the CHRI data was generated by the federal government or another state, it may not be made available to the public by the county. CHRI information generated within the state of Texas and TCIC files must be withheld from required public disclosure under section 552.101 in conjunction with common-law privacy doctrine.

Finally, you seek to withhold the home address and telephone number of a peace officer. Section 552.117 excepts, in pertinent part:

(1) the home address or home telephone number of:

....

(B) a peace officer as defined by Article 2.12, of Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code.

In order to obtain the protection of section 552.117, most public employees must comply with the provisions of section 552.024 of the act, which provides that section 552.117 does not apply unless the public employee elects to withhold his or her home address and telephone number from public view. No action is necessary, however, on the part of peace officers and Texas Department of Criminal Justice employees and their families to obtain the protection of section 552.117. Open Records Decision Nos. 532 (1989); 506 (1988). Accordingly, we conclude that the county must withhold the peace officer's home address and telephone number.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Susan Garrison
Assistant Attorney General
Open Government Section

SLG/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 23943
ID# 24212
ID# 24699
ID# 24854

cc: Mr. Clifford A. Davis, III
7328 Lea Place
Fort Worth, Texas 76140
(w/o enclosures)